

House File 237 - Introduced

HOUSE FILE 237
BY ABDUL-SAMAD

A BILL FOR

1 An Act relating to the appointment of a special prosecutor
2 after a death results from the actions of a peace officer.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 13.2, subsection 1, paragraph b, Code
2 2015, is amended to read as follows:

3 b. Prosecute and defend in any other court or tribunal, all
4 actions and proceedings, civil or criminal, in which the state
5 may be a party or interested, when, in the attorney general's
6 judgment, the interest of the state requires such action, or
7 when requested to do so by the governor, executive council, or
8 general assembly, or when the law requires such action.

9 Sec. 2. NEW SECTION. 13.35 **Special prosecutor — death**
10 **resulting from actions of peace officer.**

11 1. As used in this section, "*peace officer*" means the same
12 as defined in section 801.4.

13 2. If the actions of a peace officer, under color of law,
14 result in the death of another, the attorney general shall be
15 designated a special prosecutor and convene a grand jury to
16 investigate the incident unless the attorney general proceeds
17 by the filing of a trial information. The county attorney
18 shall not have jurisdiction over the prosecution of the peace
19 officer.

20 3. The county where the incident occurred shall pay the
21 expenses of the attorney general in the prosecution of the
22 peace officer.

23 Sec. 3. IMPLEMENTATION OF ACT. Section 25B.2, subsection
24 3, shall not apply to this Act.

25 EXPLANATION

26 The inclusion of this explanation does not constitute agreement with
27 the explanation's substance by the members of the general assembly.

28 This bill relates to the appointment of a special prosecutor
29 after a death results from the actions, under color of law, of
30 a peace officer.

31 Under the bill, if the actions of a peace officer as defined
32 in Code section 801.4 and under color of law result in the
33 death of another, the attorney general shall be designated a
34 special prosecutor and convene a grand jury to investigate the
35 incident unless the attorney general proceeds by the filing

1 of a trial information. The bill specifies that the county
2 attorney shall not have jurisdiction over the prosecution.

3 The bill further specifies that the county where the
4 incident occurred shall pay the expenses of the attorney
5 general in the prosecution of the peace officer.

6 The bill may include a state mandate as defined in Code
7 section 25B.3. The bill makes inapplicable Code section 25B.2,
8 subsection 3, which would relieve a political subdivision from
9 complying with a state mandate if funding for the cost of
10 the state mandate is not provided or specified. Therefore,
11 political subdivisions are required to comply with any state
12 mandate included in the bill.